

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
**SENATE BILLS NOS. 261,
159, 180 & 181**
95TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, February 19, 2009, with recommendation that the Senate Committee Substitute do pass.

1517S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 195.214, 195.217, 195.218, 566.147, 566.149, 566.226, 570.030 and 575.150, RSMo, and to enact in lieu thereof eight new sections relating to crime, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 195.214, 195.217, 195.218, 566.147, 566.149, 566.226, 2 570.030 and 575.150, RSMo, are repealed and eight new sections enacted in lieu 3 thereof, to be known as sections 195.214, 195.217, 195.218, 566.147, 566.149, 4 566.226, 570.030, and 575.150, to read as follows:

195.214. 1. A person commits the offense of distribution of a controlled 2 substance near schools if, **regardless of knowledge of his or her proximity** 3 **to a school, college, or university**, such person violates section 195.211 by 4 unlawfully distributing or delivering any controlled substance to a person in or 5 on, or within two thousand feet of, the real property comprising a public or 6 private elementary or secondary school, public vocational school, or a public or 7 private community college, college or university or on any school bus.

8 2. Distribution of a controlled substance near schools is a class A felony 9 which term shall be served without probation or parole if the court finds the 10 defendant is a persistent drug offender.

195.217. 1. A person commits the offense of distribution of a controlled 2 substance near a park if, **regardless of knowledge of his or her proximity** 3 **to a park**, such person violates section 195.211 by unlawfully distributing or 4 delivering heroin, cocaine, LSD, amphetamine, or methamphetamine to a person

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 in or on, or within one thousand feet of, the real property comprising a public
6 park, state park, county park, or municipal park or a public or private park
7 designed for public recreational purposes, as park is defined in section 253.010,
8 RSMo.

9 2. Distribution of a controlled substance near a park is a class A felony.

195.218. 1. A person commits the offense of distribution of a controlled
2 substance near public housing or other governmental assisted housing if [he],
3 **regardless of knowledge of his or her proximity to public or other**
4 **governmental assisted housing, such person** violates section 195.211 by
5 unlawfully distributing or delivering any controlled substance to a person in or
6 on, or within one thousand feet of the real property comprising public housing or
7 other governmental assisted housing.

8 2. Distribution of a controlled substance near public housing or other
9 governmental assisted housing is a class A felony which term shall be served
10 without probation or parole if the court finds the defendant is a persistent drug
11 offender.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has
2 pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of
3 violating any of the provisions of this chapter or the provisions of subsection 2 of
4 section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare
5 of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child
6 in a sexual performance; section 568.090, RSMo, promoting a sexual performance
7 by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025,
8 RSMo, promoting child pornography in the first degree; section 573.035, RSMo,
9 promoting child pornography in the second degree; section 573.037, RSMo,
10 possession of child pornography, or section 573.040, RSMo, furnishing
11 pornographic material to minors; or for an offense in any other state or foreign
12 country, or under federal, tribal, or military jurisdiction which, if committed in
13 this state, would be a violation listed in this section shall not reside within one
14 thousand feet of any public school as defined in section 160.011, RSMo, or any
15 private school giving instruction in a grade or grades not higher than the twelfth
16 grade, or child-care facility as defined in section 210.201, RSMo, which is in
17 existence at the time the individual begins to reside at the location.

18 2. If such person has already established a residence and a public school,
19 a private school, or child-care facility is subsequently built or placed within one
20 thousand feet of such person's residence, then such person shall, within one week

21 of the opening of such public school, private school, or child-care facility, notify
22 the county sheriff where such public school, private school, or child-care facility
23 is located that he or she is now residing within one thousand feet of such public
24 school, private school, or child-care facility and shall provide verifiable proof to
25 the sheriff that he or she resided there prior to the opening of such public school,
26 private school, or child-care facility.

27 3. For purposes of this section, "resides" means sleeps in a residence,
28 which may include more than one location and may be mobile or transitory.

29 4. **Regardless of the person's knowledge of his or her residence's**
30 **proximity to a public school, private school, or child-care facility,**
31 violation of the provisions of subsection 1 of this section is a class D felony except
32 that the second or any subsequent violation is a class B felony. Violation of the
33 provisions of subsection 2 of this section is a class A misdemeanor except that the
34 second or subsequent violation is a class D felony.

566.149. 1. Any person who has pleaded guilty or nolo contendere to, or
2 been convicted of, or been found guilty of violating any of the provisions of this
3 chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section
4 568.045, RSMo, endangering the welfare of a child in the first degree; subsection
5 2 of section 568.080, RSMo, use of a child in a sexual performance; section
6 568.090, RSMo, promoting a sexual performance by a child; section 573.023,
7 RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child
8 pornography; or section 573.040, RSMo, furnishing pornographic material to
9 minors; or for an offense in any other state or foreign country, or under tribal,
10 federal, or military jurisdiction which, if committed in this state, would be a
11 violation listed in this section shall not be present in or loiter within five hundred
12 feet of any school building, on real property comprising any school, or in any
13 conveyance owned, leased, or contracted by a school to transport students to or
14 from school or a school-related activity when persons under the age of eighteen
15 are present in the building, on the grounds, or in the conveyance, unless the
16 offender is a parent, legal guardian, or custodian of a student present in the
17 building and has met the conditions set forth in subsection 2 of this section.

18 2. No parent, legal guardian, or custodian who has pleaded guilty or nolo
19 contendere to, or been convicted of, or been found guilty of violating any of the
20 offenses listed in subsection 1 of this section shall be present in any school
21 building, on real property comprising any school, or in any conveyance owned,
22 leased, or contracted by a school to transport students to or from school or a

23 school-related activity when persons under the age of eighteen are present in the
24 building, on the grounds or in the conveyance unless the parent, legal guardian,
25 or custodian has permission to be present from the superintendent or school
26 board or in the case of a private school from the principal. In the case of a public
27 school, if permission is granted, the superintendent or school board president
28 must inform the principal of the school where the sex offender will be
29 present. Permission may be granted by the superintendent, school board, or in
30 the case of a private school from the principal for more than one event at a time,
31 such as a series of events, however, the parent, legal guardian, or custodian must
32 obtain permission for any other event he or she wishes to attend for which he or
33 she has not yet had permission granted.

34 **3. Regardless of the person's knowledge of his or her proximity**
35 **to school property or a school-related activity, violation of the provisions**
36 **of this section shall be a class A misdemeanor.**

566.226. 1. After August 28, 2007, any information contained in any court
2 record, whether written or published on the Internet, that could be used to
3 identify or locate any victim of sexual assault, domestic assault, stalking, or
4 forcible rape shall be closed and redacted from such record prior to disclosure to
5 the public. Identifying information shall include the name, home or temporary
6 address, telephone number, Social Security number or physical characteristics.

7 2. If the court determines that a person or entity who is requesting
8 identifying information of a victim has a legitimate interest in obtaining such
9 information, the court may allow access to the information, but only if the court
10 determines that disclosure to the person or entity would not compromise the
11 welfare or safety of such victim.

12 **3. Notwithstanding the provisions of subsection 1 of this section,**
13 **the judge presiding over a domestic assault case shall have the**
14 **discretion to publicly disclose identifying information regarding the**
15 **defendant which could be used to identify or locate the victim of the**
16 **crime. The victim may provide a statement to the court regarding**
17 **whether he or she desires such information to remain closed. When**
18 **making the decision to disclose such information, the judge shall**
19 **consider the welfare and safety of the victim and any statement to the**
20 **court received by the victim regarding the disclosure.**

570.030. 1. A person commits the crime of stealing if he or she
2 appropriates property or services of another with the purpose to deprive him or

3 her thereof, either without his or her consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution
5 pursuant to this section on the issue of the requisite knowledge or belief of the
6 alleged stealer:

7 (1) That he or she failed or refused to pay for property or services of a
8 hotel, restaurant, inn or boardinghouse;

9 (2) That he or she gave in payment for property or services of a hotel,
10 restaurant, inn or boardinghouse a check or negotiable paper on which payment
11 was refused;

12 (3) That he or she left the hotel, restaurant, inn or boardinghouse with
13 the intent to not pay for property or services;

14 (4) That he or she surreptitiously removed or attempted to remove his or
15 her baggage from a hotel, inn or boardinghouse;

16 (5) That he or she, with intent to cheat or defraud a retailer, possesses,
17 uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales
18 receipt, price tag, or universal price code label, or possesses with intent to cheat
19 or defraud, the device that manufactures fraudulent receipts or universal price
20 code labels.

21 3. Notwithstanding any other provision of law, any offense in which the
22 value of property or services is an element is a class C felony if:

23 (1) The value of the property or services appropriated is five hundred
24 dollars or more but less than twenty-five thousand dollars; or

25 (2) The actor physically takes the property appropriated from the person
26 of the victim; or

27 (3) The property appropriated consists of:

28 (a) Any motor vehicle, watercraft or aircraft; or

29 (b) Any will or unrecorded deed affecting real property; or

30 (c) Any credit card or letter of credit; or

31 (d) Any firearms; or

32 (e) A United States national flag designed, intended and used for display
33 on buildings or stationary flagstaffs in the open; or

34 (f) Any original copy of an act, bill or resolution, introduced or acted upon
35 by the legislature of the state of Missouri; or

36 (g) Any pleading, notice, judgment or any other record or entry of any
37 court of this state, any other state or of the United States; or

38 (h) Any book of registration or list of voters required by chapter 115,

39 RSMo; or

40 (i) Any animal [of the species of horse, mule, ass, cattle, swine, sheep, or
41 goat] **considered livestock as that term is defined in section 144.010,**
42 **RSMo;** or

43 (j) Live fish raised for commercial sale with a value of seventy-five dollars;
44 or

45 (k) **Captive quail or pheasant; or**

46 **(l) Domestic farm-raised whitetail deer; or**

47 **(m)** Any controlled substance as defined by section 195.010, RSMo; or

48 [(l)] **(n)** Anhydrous ammonia; **or**

49 [(m)] **(o)** Ammonium nitrate; or

50 [(n)] **(p)** Any document of historical significance which has fair market
51 value of five hundred dollars or more.

52 4. If an actor appropriates any material with a value less than five
53 hundred dollars in violation of this section with the intent to use such material
54 to manufacture, compound, produce, prepare, test or analyze amphetamine or
55 methamphetamine or any of their analogues, then such violation is a class C
56 felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any
57 attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class
58 B felony. The theft of any amount of anhydrous ammonia by appropriation of a
59 tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or
60 field applicator is a class A felony.

61 5. The theft of any item of property or services pursuant to subsection 3
62 of this section which exceeds five hundred dollars may be considered a separate
63 felony and may be charged in separate counts.

64 6. Any person with a prior conviction of [paragraph] **paragraphs (i), (k),**
65 **or (l)** of subdivision (3) of subsection 3 of this section and who violates the
66 provisions of [paragraph] **paragraphs (i), (k), or (l)** of subdivision (3) of
67 subsection 3 of this section when the value of the animal or animals stolen
68 exceeds three thousand dollars is guilty of a class B felony. **Notwithstanding**
69 **any provision of law to the contrary, such person shall serve a**
70 **minimum prison term of not less than eighty percent of his or her**
71 **sentence before he or she is eligible for probation, parole, conditional**
72 **release, or other early release by the department of corrections.**

73 7. Any offense in which the value of property or services is an element is
74 a class B felony if the value of the property or services equals or exceeds

75 twenty-five thousand dollars.

76 8. Any violation of this section for which no other penalty is specified in
77 this section is a class A misdemeanor.

575.150. 1. A person commits the crime of resisting or interfering with
2 arrest, detention, or stop if, knowing that a law enforcement officer is making an
3 arrest, or attempting to lawfully detain or stop an individual or vehicle, or the
4 person reasonably should know that a law enforcement officer is making an arrest
5 or attempting to lawfully detain or lawfully stop an individual or vehicle, for the
6 purpose of preventing the officer from effecting the arrest, stop or detention, the
7 person:

8 (1) Resists the arrest, stop or detention of such person by using or
9 threatening the use of violence or physical force or by fleeing from such officer;
10 or

11 (2) Interferes with the arrest, stop or detention of another person by using
12 or threatening the use of violence, physical force or physical interference.

13 2. This section applies to arrests, stops or detentions with or without
14 warrants and to arrests, stops or detentions for any crime, infraction or ordinance
15 violation.

16 3. A person is presumed to be fleeing a vehicle stop if that person
17 continues to operate a motor vehicle after that person has seen or should have
18 seen clearly visible emergency lights or has heard or should have heard an
19 audible signal emanating from the law enforcement vehicle pursuing that person.

20 4. It is no defense to a prosecution pursuant to subsection 1 of this section
21 that the law enforcement officer was acting unlawfully in making the arrest **or**
22 **if a court later determines that the arrest was made without valid**
23 **probable cause.** However, nothing in this section shall be construed to bar civil
24 suits for unlawful arrest.

25 5. Resisting or interfering with an arrest for a felony is a class D
26 felony. Resisting an arrest, detention or stop by fleeing in such a manner that
27 the person fleeing creates a substantial risk of serious physical injury or death
28 to any person is a class D felony; otherwise, resisting or interfering with an
29 arrest, detention or stop in violation of subdivision (1) or (2) of subsection 1 of
30 this section is a class A misdemeanor.